



Intel inside and out

A dawn raid on Intel's offices by EU Commission investigators has breathed new life into AMD's complaint about its rival's bullying tactics. But Paul Nesbitt wonders if the lawsuit will cost Intel much at all

Intel is following in the footsteps of its famous partner Microsoft by attracting the attention of the European Commission. The EC will now try to determine if the hardware manufacturer has been acting illegally. Intel and Microsoft have worked closely for years, and both have been involved in competition-based investigations, but their cases could turn out quite differently.

EC inspectors have raided Intel offices across Europe, as well as the offices of some PC vendors, including Dell. The EC has been watching Intel since 2000, but now things could heat up for the company, which controls 90 per cent of the world's processor market by value and 80 per cent by volume.

Intel has been at war with AMD since the 1980s, both in the x86 processor market and the courts, but so far Intel has been more successful than Microsoft at fending off court cases from competitors and regulators. However, in March Japan's Fair Trade Commission (JFTC) ruled that Intel had unlawfully used its monopoly power to stop AMD selling processors to Sony, Toshiba, Fujitsu, NEC and Hitachi. Intel agreed to comply with the JFTC's rulings but declined to acknowledge any wrongdoing. This lack of contrition appears to have been enough to rekindle the five-year EC investigation.

PLAYING MONOPOLY

In June AMD filed an explosive 48-page document of complaints with a US district court, packed with allegations of Intel's dirty deeds, along with a request for a court hearing. "Intel's actions include forcing major customers to accept exclusive deals; withholding rebates and marketing subsidies as a means of punishing customers who buy more than prescribed quantities of processors from AMD; threatening retaliation against customers doing business with AMD; establishing quotas keeping retailers from selling the computers they want and forcing PC makers to boycott AMD product launches," claimed AMD CEO Hector Ruiz.

Intel is also accused of meddling with UK retailers, trying to make it nearly impossible for Brits to buy PCs with anything other than Intel Inside. "In the United Kingdom, Intel has locked up substantially all of the business of Dixon Services Group (DSG), operator of three major chains including Dixons and PC World that collectively account for two thirds of the UK PC market," alleges AMD.

AMD's document claims that Intel paid Dixons to marginalise AMD and that it penalises the company simply for dealing with AMD at all. "In exchange for Intel payments, DSG has agreed to

keep AMD's share of its business below 10 per cent," it states. "DSG reports that Intel penalises it with reduced market development funds (MDF) just on account of the small amount of business it does with AMD."

A Dixons spokesman denied any wrongdoing on his company's part. "This is a matter between AMD

chips that Compaq desperately needed because of the volume of business he had given to AMD".

Since then Gateway has abandoned AMD and Compaq has been swallowed up by HP. AMD's court document, which you can read at www.amd.com, is shocking. Intel CEO Paul Otellini issued a statement after AMD filed its document saying, "Intel has

always respected the laws of the countries in which we operate. We compete aggressively and fairly to deliver the best value to consumers. This will not change."

AMD further alleges that despite the acknowledged technical superiority of processors such as the Athlon and the Opteron, the company's "market share has not kept pace with its technical leadership. Intel's misconduct is the reason." AMD cites lots of examples of how it believes Intel tried, and succeeded, in preventing it from increasing its market share.

DAMAGE LIMITATION

It is ironic that Intel has been protected from more Microsoft-style anti-monopoly litigation because it has AMD as a competitor. As Ruiz acknowledges, Intel's behaviour may be rough but, unless it can be established that it is a monopoly, it will have little to fear from any court action.

Even then, as Microsoft has shown, being declared a US monopoly needn't have much impact on a company, other than opening it to lawsuits. Microsoft faced suits worth around \$8 billion (around £4.5bn). This is small change to Microsoft, which has grown fat from its Windows and Office revenue.

US antitrust legislators won't generally rule against a monopolist if it is proved to have damaged its competitors unfairly unless its actions have harmed consumers in terms of higher prices or reduced choice. In the US it is not enough that AMD is disappointed by sales of its Opteron.

Microsoft's monopoly position caused the price of its operating systems to rise dramatically in real terms and as a percentage of the cost of a new PC. Yet the company has been barely scratched by the US courts. Intel can point to the fact that prices for processors have fallen dramatically, due in part to competition with AMD. It will be much harder for AMD's US suit to succeed than any of the cases against Microsoft.

However, European law is often more concerned with how anti-competitive behaviour harms competing companies and requires less proof that the customer has been harmed. Microsoft has found tangling with the EC much more tiresome than dealing with the US courts. Now that Intel's offices have been raided by EC investigators, there will be an uncomfortable few months ahead inside Intel. **CS**



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and Intel. We have long-standing commercial relationships with both companies and others. These are of course fully compliant with all relevant regulations and our own ethical sourcing policy."

AN OFFER THEY CAN'T REFUSE

According to AMD, Intel's reach goes even further. "Toys'R'Us in the UK is also exclusive to Intel," claims the document, while Time "took a substantial MDF payment from Intel in exchange for near-exclusivity on notebooks during the first half of 2004, and it reports that Intel has withheld discounts because Time has introduced too many AMD Athlon 64 desktop models." As *Shopper* reports on page 250, Time is in serious financial trouble.

AMD alleges that Intel indulged in the kind of customer bullying that Microsoft employed to make its own fortune. "Gateway executives recounted that Intel's threats beat them into 'guacamole'."

The AMD document goes on to claim that, "in 2000 Compaq CEO Michael Capellas said Intel put 'a gun to his head' by withholding delivery of server